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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Willi Kraus

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FAY SHARPE LLP

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EXAMINER

WALKER, NED ANDREW

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,805	<b>Applicant(s)</b> KRAUS, WILLI	
	<b>Examiner</b> NED A. WALKER	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/17/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. In response to the Election filed on March 17<sup>th</sup>, 2008, applicant traversed the restriction requirement by submitting that all the common elements are not found in the prior art, and therefore the claims are not restrictable. Examiner has responded by applying prior art that comprehensively discloses all the elements of claim 1, thereby confirming that the common elements are not a special technical feature since the elements are shown in the prior art, and therefore, the claims are indeed restrictable. This prior art is used to form basis of the rejection herein.
2. Examiner acknowledges the election of Species 2 of figures 5-6 and the corresponding claims 1 and 5. Examiner respectfully disagrees with the applicant that the claims 6 and 7, which are depending from claim 5, are drawn to this species; the examiner points out that the stop-teeth and cross pieces are not illustrated in figures 5 and 6; therefore these claims are not drawn to Species 2.
3. The election of Species 2 corresponding to claims 1 and 5 and therefore results in the withdrawal of claims 6-8.

### ***Drawings***

4. Examiner acknowledges the replacement drawing sheet (page 2/2) filed along with the preliminary amendment on December 17, 2004.
5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the

description: 21". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application.

6. The drawings are objected to on multiple grounds; new corrected drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 are further required in this application because:

The drawings contain excessive copy marks. The drawings must be reasonably free from erasures and must be free from alterations, overwriting, interlineations, folds, and copy marks. Refer to 37 CFR 1.84(e). See Figure(s) 1-8.

The drawings contain deficient line quality. All drawings must be made by a process which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well-defined. Refer to 37 CFR 1.84(l). See Figure(s) 1-8.

Reference characters contain inverted commas (e.g. prime marking, primed suffix etc.) and are therefore formatted incorrectly. Reference characters (numerals are preferred), sheet numbers, and view numbers must be plain and legible, and must not be used in association with brackets or inverted commas, or enclosed within outlines, e.g., encircled. They must be oriented in the same direction as the view so as to avoid having to rotate the sheet. Reference characters should be arranged to follow the profile of the object depicted. Refer to 37 CFR 1.84(p(1)). See Figure(s) 1-8.

The drawings contain improper exploded views. Exploded views, with the separated parts embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.

Refer to 37 CFR 1.84(h(1)). See Figure(s) 1.

The drawings contain center lines. Views must not be connected by projection lines and must not contain center lines. Refer to 37 CFR 1.84(h). See Figure(s) 2 and 5-7.

The partial views are improperly numbered. Partial views intended to form one complete view, on one or several sheets, must be identified by the same number followed by a capital letter. Refer to 37 CFR 1.84(u). See Figure(s) 1 and 3.

The drawing sheet numbering is formatted improperly. The drawing sheet numbering must be clear and larger than the numbers used as reference characters to avoid confusion. Refer to 37 CFR 1.84(t). See pages 1-2.

7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one technical or inventive feature (i.e. two-piece closure cover comprising a lid and insert having lock-stops for sealing an opening in a support plate, etc.) set forth in the application.

### ***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is reminded that the use of reference characters is to be considered as having no effect on the scope of the claims, see MPEP § 608.01(m).

Claim 5 recites the limitation "said ring" in line 13. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**12. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by de Winter (US Pat. No. 4,316,550).**

Regarding claim 1, de Winter teaches a closing lid (1), for tight sealing of an opening in a support plate, comprising: a closing lid including a lid element (7) and an insert element (6); said insert element including a center region (20) which, in mounted state of the said closing lid, acts upon an elastic counter-region (12) of the lid element

whereby the lid element and the insert element can be locked together in a mounted state (FIG. 5); said elastic counter-region of the lid element includes a plate (14) positioned opposite the said center region of the said insert element, said plate is connected by a thin conical section (angled section forming based under 16 in FIG. 5) to a collar (considered to be area defined by 7, excluding 14) of said lid element; said collar of said lid element includes an intermediate ring (16) extending circumferentially therearound and having a cover region (9) integrally formed thereto (via 13), which acts upon, in mounted state of the closing lid, the support plate in the region of the opening (FIG. 5); said intermediate ring includes a lock-stop region (threads on 16 in FIG. 5); said insert element includes a collar (19) having at least two successively positioned counter-lock-stops (threads on 19 in FIG. 5) at an outer circumference; said lock-stop region adapted to engage said counter-lock-stop for pre-mounting and said counter lock-stop for final mounting (FIG. 5, column 3 lines 29-31).

Regarding claim 5, de Winter discloses a closure cover (1) for tight closure of an opening in a support plate (2) comprising: a lid element (7) and an insert element (6); said insert element includes a center region (20); said lid element includes an elastic counter region (12) adapted to engage said center region wherein said lid element and said insert element can be locked together in a mounted state (FIG. 5); said elastic counter region of said lid element includes a plate (12) positioned opposite said center region of the insert element, said plate includes a conical section (13) connected to a collar (16) of said lid element; said collar connected to an intermediate ring (16) extending circumferentially thereto; said ring connected to a cover region (8), said cover



region (25) in said mounted state, engages said support plate in a region of said opening (FIG. 5); said intermediate ring includes a lock-stop region (threads on 16 in FIG. 5) extending circumferentially outwardly therefrom; said insert element includes a collar (19) having two successively positioned counter-lock-stops (threads on 19 in FIG. 5) at an outer circumference; and, said lock-stop region adapted to engage in a pre-mounting position to said counter-lock-stop and in a final mounting position to said counter-lock-stop (FIG. 5, column 3 lines 29-31).

**13. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Hwang et al. (WO 0236450).**

Regarding claim 1, Hwang et al. discloses a closing lid (FIGS. 2-3), for tight sealing of an opening in a support plate (4), comprising: a closing lid including a lid element (3) and an insert element (1); said insert element including a center region (16) which, in mounted state of the said closing lid, acts upon an elastic counter-region (FIG. 3, page 5 lines 5-20) of the lid element whereby the lid element and the insert element can be locked together in a mounted state (FIG. 3); said elastic counter-region of the lid element includes a plate (horizontal base of 3 in FIG. 3) positioned opposite the said center region of the said insert element, said plate is connected by a thin conical section (angled sidewall section of 3 in FIG. 3) to a collar (sidewall of 3 including the annular surface 32 as shown in FIG. 3) of said lid element; said collar of said lid element includes an intermediate ring (sidewall of 3) extending circumferentially therearound and having a cover region integrally formed thereto, which acts upon, in mounted state of the closing lid, the support plate in the region of the opening (FIG. 3); said intermediate

ring (22) includes a lock-stop region (31); said insert element includes a collar (12) having at least two successively positioned counter-lock-stops (17) at an outer circumference (FIGS. 2-3); said lock-stop region adapted to engage said counter-lock-stop for pre-mounting and said counter lock-stop for final mounting (FIG. 2-3).

Regarding claim 5, Hwang et al. discloses a closure cover (FIG. 2) for tight closure of an opening in a support plate (4) comprising: a lid element (3) and an insert element (1); said insert element includes a center region (16); said lid element includes an elastic counter region (FIG. 3, page 5 lines 5-20) adapted to engage said center region wherein said lid element and said insert element can be locked together in a mounted state (FIG. 3); said elastic counter region of said lid element includes a plate (horizontal base of 3 in FIG. 3) positioned opposite said center region of the insert element, said plate includes a conical section (angled sidewall section of 3 in FIG. 3) connected to a collar (32) of said lid element; said collar connected to an intermediate ring (sidewall of 3) extending circumferentially thereto; said ring connected to a cover region (bottom plane of 32), said cover region in said mounted state, engages said support plate in a region of said opening (FIG. 3); said intermediate ring includes a lock-stop region (31) extending circumferentially outwardly therefrom; said insert element includes a collar (12) having two successively positioned counter-lock-stops (17) at an outer circumference (FIGS. 2-3); and, said lock-stop region adapted to engage in a pre-mounting position to said counter-lock-stop and in a final mounting position to said counter-lock-stop (FIGS. 2-3).

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NED A. WALKER whose telephone number is (571)270-3545. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NW

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